

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Hilary Hudson	Team: Team # 2	CCRB Case #: 201102756	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 03/01/2011 6:00 PM	Location of Incident: Nostrand Avenue and Pacific Street	Precinct: 77	18 Mo. SOL 9/1/2012	EO SOL 9/1/2012	
Date/Time CV Reported Thu, 03/03/2011 1:11 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Thu, 03/03/2011 1:11 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Vitaliy Zelikov	01346	936353	PBBN
2. POM Mark Desimone	00281	923755	077 PCT
3. POM Mourad Mourad	10668	936055	077 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Katrina Weekes	00210	949787	PBBN
2. POM Joseph D'Ambra	08014	948846	PBBN
3. POF Marlenis Roque	02448	949571	PBBN
4. POM John Yen	05068	949815	PBBN

Officer(s)	Allegation	Investigator Recommendation
A.POM Mourad Mourad	Abuse: PO Mourad Mourad stopped § 87(2)(b)	
B.SGT Vitaliy Zelikov	Force: Sgt. Vitaliy Zelikov used physical force against § 87(2)(b)	
C.POM Mark Desimone	Abuse: PO Mark DeSimone damaged § 87(2)(b)'s property.	
D.POM Mark Desimone	Abuse: PO Mark DeSimone threatened § 87(2)(b) with the use of force.	
E.SGT Vitaliy Zelikov	Discourtesy: Sgt. Vitaliy Zelikov spoke obscenely to § 87(2)(b)	

Case Summary

§ 87(2)(b) filed this complaint on behalf of her brother, § 87(2)(b) with IAB on March 1, 2011 (encl. 9A-B). § 87(2)(b) did not witness the incident. IAB referred the case to the CCRB on March 2, 2011, under Log #11-09217. § 87(2)(b) filed her complaint with the CCRB via the Call Processing System on March 3, 2011 (encl. 10A-C). § 87(2)(b)'s complaint #§ 87(2)(b) was closed as a duplicate of this complaint.

On March 1, 2011, at approximately 6:00 p.m., § 87(2)(b) interacted with PO Mourad Mourad, Sgt. Vitaliy Zelikov, and PO Mark DeSimone after being suspected of robbery. § 87(2)(b) was driving in the vicinity when her vehicle collided with PO DeSimone. The following allegations resulted:

- **Allegation A – Abuse of Authority: PO Mourad Mourad stopped** § 87(2)(b) § 87(2)(g)
- **Allegation B – Force: Sgt. Vitaliy Zelikov used physical force against** § 87(2)(b) § 87(2)(g)
- **Allegation C – Abuse of Authority: PO Mark DeSimone damaged** § 87(2)(b)'s property. § 87(2)(g)
- **Allegation D – Abuse of Authority: PO Mark DeSimone threatened** § 87(2)(b) with the use of force. § 87(2)(g)
- **Allegation E – Discourtesy: Sgt. Vitaliy Zelikov spoke obscenely to** § 87(2)(b) § 87(2)(g)

Results of Investigation

Civilian Statements

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) -old black female, 5'2" tall, with brown hair and brown eyes. § 87(2)(b) works as a § 87(2)(b).

CCRB Testimony

§ 87(2)(b) filed her complaint with the CCRB on March 3, 2011. § 87(2)(b) was interviewed at the CCRB on March 11, 2011 (encl. 11A-G). Inconsistencies in her statements are noted.

On March 1, 2011, at approximately 6:00 p.m., § 87(2)(b) was driving alone southbound on Nostrand Avenue in Brooklyn, on her way to work. She had just crossed Atlantic Avenue when she saw a marked police van parked on Pacific Street, facing north on Nostrand Avenue. She did not see any officers but she slowed down and stopped at a red light on Nostrand Avenue and Pacific Street.

When the light turned green she slowly proceeded through the light. § 87(2)(b) was halfway through the intersection when an officer identified through the

investigation as PO Mark DeSimone came running up on her left and collided with the front of her vehicle. § 87(2)(b) immediately stopped her car. PO DeSimone jumped on the hood of her car. PO DeSimone turned around, angrily made eye contact with § 87(2)(b) and used his palm to purposefully smash the middle of her windshield. PO DeSimone rolled off of her car and kept running on Pacific Street. PO DeSimone did not say anything to her. § 87(2)(b) did not see who PO DeSimone was chasing.

§ 87(2)(b) saw two uniformed female officers standing nearby. She identified one officer by name as PO Katrina Weekes. § 87(2)(b) was unable to describe the other female officer. § 87(2)(b) got out of her car and said, “Oh my God! Look what he did!” She was in a state of shock and did not know what to do. An unidentified Asian male officer instructed her to move her car from away from the corner, so she did.

Off to § 87(2)(b)'s right, she saw officers surrounding a person on the ground. She could not estimate the number of officers there. § 87(2)(b) figured the officers had caught a “bad guy” so she was not focused on the person on the ground. She did not notice if an officer punched him. She later noticed that the “bad guy” § 87(2)(b) was handcuffed and in the van.

After § 87(2)(b) moved her car, an officer identified through the investigation as Sgt. Vitaliy Zelikov came up to her and asked if she was okay. § 87(2)(b) replied that she was okay but her car was not. Sgt. Zelikov said that he did not give a “fuck” about her car. She did not make that discourtesy allegation when she initially filed her complaint. Sgt. Zelikov also told her to move her car or else it would be towed or ticketed. § 87(2)(b) moved her car and called 911. PO Weekes took § 87(2)(b)'s information to complete an accident report.

§ 87(2)(b) obtained the first names and telephone numbers for two witnesses named § 87(2)(b) and “§ 87(2)(b)”. She did not know either of them before this incident. While she was sitting in her car trying to compose herself, § 87(2)(b) came up and asked her what happened to her windshield. § 87(2)(b) gave her his name and stated that he was § 87(2)(b)-old. § 87(2)(b) provided the CCRB with photographs of her damaged windshield, taken on March 2, 2011 (encl. 11D-E).

Victim: § 87(2)(b)

- § 87(2)(b) -old black male, 5’7” tall, 164 pounds, with black hair and brown eyes. He is a § 87(2)(b).

CCRB Testimony

§ 87(2)(b) was interviewed at the CCRB on March 15, 2011 (encl. 12A-E). On March 1, 2011, shortly before 6:00 p.m., § 87(2)(b) received a call from his sister, § 87(2)(b) asking him to help their mother with some purchases she made at Fulton Street and Nostrand Avenue in Brooklyn. § 87(2)(b) was wearing a green sweater, navy blue jeans, a gray hat with a red bill, and had his gray hoodie wrapped around one of his arms. § 87(2)(b) was already outside and started running on the west side of Nostrand Avenue. He ran north past Bergen Street and Dean Street.

§ 87(2)(b) was almost across Pacific Street when an officer, identified through the investigation as Sgt. Vitaliy Zelikov, wrapped his hands around § 87(2)(b) from behind and tackled § 87(2)(b) to the ground onto his stomach. He had not heard an officer tell him to stop prior to that. Sgt. Zelikov came from the east side of Nostrand Avenue, where § 87(2)(b) saw a marked NYPD van parked. As Sgt. Zelikov tackled him, he instructed § 87(2)(b) to get on the ground.

Sgt. Zelikov held § 87(2)(b)'s back and right calf down. Sgt. Zelikov pulled § 87(2)(b)'s left hand behind his back and handcuffed it. § 87(2)(b) asked what happened but Sgt. Zelikov told him to give his other hand. § 87(2)(b)'s right hand was underneath his abdomen and he was holding onto his cell phone. § 87(2)(b) told Sgt. Zelikov that he could not move his hand. Sgt. Zelikov punched § 87(2)(b) once in the lower right part of his back. § 87(2)(b) then dropped his cell phone, pushed up off the ground, and was able to give up his right hand.

By that time, three more white male uniformed officers came over, but § 87(2)(b) was also unable to describe them. § 87(2)(b) heard an unknown male officer say to check if anyone had been robbed. However, § 87(2)(b) had not robbed anyone. He also saw a woman § 87(2)(b) parked in the middle of the intersection. He did not know why she was parked there and thought she might have stopped to watch him. § 87(2)(b) heard an unknown officer tell her to move out of the way. Another officer asked § 87(2)(b) why he was running but § 87(2)(b) did not indicate whether he responded.

After officers lifted § 87(2)(b) off the ground, he voluntarily gave them his name, told them what school he attends, and the amount of money (\$23) he had with him. § 87(2)(b) did not want the officers to further accuse him of robbing someone. § 87(2)(b) then asked what he did wrong. An officer identified through the investigation as PO Mark DeSimone told him to shut up or else he would break his other good hand on § 87(2)(b)'s skull. § 87(2)(b) saw that PO DeSimone's knuckles were red and bruised on one hand. § 87(2)(b) did not want to get hit in the head so he stopped talking and started smiling and laughing. He thought the situation was funny because he did nothing wrong.

Officers looked around for five to ten minutes before an officer searched § 87(2)(b) and placed him in the marked van. An officer identified through the investigation as PO Mourad Mourad came over to the van and told § 87(2)(b) that before he was tackled to the ground he tried to tell him to stop. § 87(2)(b) also saw two female officers there, one of whom he identified by name as PO Marlenis Roque. He could not describe the other female officer. § 87(2)(b) obtained Sgt. Zelikov's name and shield number (1346) later from § 87(2)(b).

By about 6:30 p.m. or 6:40 p.m., § 87(2)(b) was un-handcuffed and free to leave. He was not summonsed or charged with committing any crime. As he was walking away he heard Sgt. Zelikov tell § 87(2)(b) to move her car or [something he could remember]. She asked Sgt. Zelikov what she should do about the damage to her car. Sgt. Zelikov responded that he did not care and told her again to move her car. § 87(2)(b) was unsure if Sgt. Zelikov cursed at § 87(2)(b) or threatened to tow the car or summons her. § 87(2)(b) was close to § 87(2)(b)'s car and saw that her windshield was badly damaged. He did not see how her windshield got damaged.

§ 87(2)(b) talked to § 87(2)(b) after she moved her car. They exchanged contact information and § 87(2)(b) did not know her before this incident. Around 6:45 p.m. or 7:00 p.m., when § 87(2)(b) reached Dean Street and Bedford Avenue, he called for an ambulance because his back hurt. An ambulance responded and he was taken to § 87(2)(b).

Attempts to Contact Witnesses

- § 87(2)(b) was reached via telephone on March 21, 2011 (encl. 13). He § 87(2)(b) to provide his real name or address, and § 87(2)(b) to be interviewed in person. On March 1, 2011, at approximately 6:00 p.m., § 87(2)(b) was walking on Nostrand Avenue in Brooklyn. After crossing Nostrand Avenue at Pacific Street, § 87(2)(b) saw a young boy § 87(2)(b) running and at least two uniformed male officers were running behind him. An officer,

identified through the investigation as PO Mark DeSimone, driving a marked van stopped and exited the van. PO DeSimone jumped onto a woman's § 87(2)(b) car at the hood and windshield area. When asked if § 87(2)(b) saw PO DeSimone hit his hand against § 87(2)(b)'s windshield, § 87(2)(b) stated that it happened so fast, he could not say. § 87(2)(b)'s windshield was not damaged before the officer made contact with her car.

PO DeSimone got off § 87(2)(b)'s car and tackled § 87(2)(b) against the back of a parked car. Several officers swarmed around § 87(2)(b). § 87(2)(b) was unable to tell what happened, but saw an officer hold § 87(2)(b)'s neck using his [the officer's] knee. § 87(2)(b) could not tell if an officer punched § 87(2)(b) in the back. § 87(2)(b) was not resisting. After § 87(2)(b) was handcuffed he was put into the police van. § 87(2)(b) never heard officers talk about someone getting robbed or checking if anyone was robbed.

PO DeSimone got into an ambulance but § 87(2)(b) did not see if he was injured. § 87(2)(b) estimated that he witnessed the incident from about ten feet away. There were fifteen to twenty other witnesses at the scene but § 87(2)(b) did not want to provide their contact information to get them involved. § 87(2)(b) gave his name and phone number § 87(2)(b). § 87(2)(b) does not know § 87(2)(b) or § 87(2)(b).

- Three voice messages were left for § 87(2)(b) between March 18, 2011, and March 24, 2011. The voice mail message indicated the number belonged to a female doctor whose name was unclear. On March 25, 2011, that female doctor left the undersigned investigator a voice message stating that she was not in Brooklyn on March 1, 2011, and had no knowledge of the incident (encl. 39G).

NYPD Statements:

Subject Officer: PO MOURAD MOURAD

- § 87(2)(b) -old black male, 5'10" tall, 195 pounds, with black hair and brown eyes.
- On the date of the incident, working as a field training officer for the 77th Precinct. He worked from 3:00 p.m. until 11:35 p.m., was partnered with PO Mark DeSimone, was dressed in uniform, and was assigned to a marked van.

Memo Book

At 6:00 p.m., one male was stopped at the intersection of Pacific Street and Nostrand Avenue (encl. 14A-B). At 6:08 p.m., one male was stopped- § 87(2)(b) black male, § 87(2)(b) of § 87(2)(b). § 87(2)(b) was observed sprinting with what appeared to be a purse in his hand and § 87(2)(b) to stop at officers' command. One stop, question, and frisk report was prepared for suspected robbery, job #10973.

Stop, Question, and Frisk Report

At 6:00 p.m. on March 1, 2011, at the intersection of Nostrand Avenue and Pacific Street, a § 87(2)(b) -old black male § 87(2)(b) was stopped for suspected robbery (encl. 15A-B). § 87(2)(b) was carrying objects in plain view that are commonly used in the commission of crime, and his actions were indicative of engaging in violent crime. There was a report from a victim, witness, or officer. He was frisked because he § 87(2)(b) to comply with the officers' directions and his actions were indicative of engaging in violent crimes.

CCRB Testimony

PO Mourad was interviewed at the CCRB on June 13, 2011 (encl. 16A-B). On March 1, 2011, at approximately 6:00 p.m., PO Mourad was getting back into his van when he heard an unknown person scream loudly. PO Mourad looked to his right, where he heard the scream come from, and saw a male later identified as § 87(2)(b) sprinting on Nostrand Avenue. It appeared that § 87(2)(b) had a round purse in his hand. PO Mourad did not remember the color of the possible purse.

PO Mourad chased after him, loudly shouting “Police, stop!” at least twice. PO Mourad did not know if § 87(2)(b) heard him, but § 87(2)(b) looked back at PO Mourad as PO Mourad chased and verbally tried to stop him. It was a busy area and other people were around. PO Mourad did not tell PO DeSimone what he was doing and did not put the job over the radio since he saw another unit nearby and did not want an unnecessary number of units responding. Sgt. Zelikov and his partner were involved in a separate car stop and were able to stop § 87(2)(b). § 87(2)(b) was taken to the ground by unknown officers. PO Mourad, along with Sgt. Zelikov and other unknown officers, handcuffed him. He did not remember if one of § 87(2)(b)'s arms was under his body. PO Mourad did not see an officer punch § 87(2)(b) in the back.

PO Mourad lifted § 87(2)(b) off the ground and saw that § 87(2)(b) had a t-shirt in his hand. He asked § 87(2)(b) why he did not stop and § 87(2)(b) responded that he was running to meet up with his mother. PO Mourad told him that it was high crime location and there was a reason he tried to get him to stop. § 87(2)(b) was understanding and verbally provided his information for a stop, question, and frisk report. § 87(2)(b) was not injured. He did not remember PO DeSimone and § 87(2)(b) speaking to one another, and did not hear PO DeSimone threaten § 87(2)(b) with the use of force.

PO Mourad did not witness an incident with PO DeSimone and a motor vehicle. PO Mourad saw the vehicle afterward and saw the windshield was damaged. He did not know how the windshield got damaged. He did not observe the driver of that vehicle § 87(2)(b) speaking to Sgt. Zelikov. PO Mourad did not remember if PO DeSimone was injured or if an ambulance came to the scene for him.

Subject Officer: PO MARK DESIMONE

- § 87(2)(b) -old white male, 6’0” tall, 200 pounds, with brown hair and brown eyes.
- On the date of the incident, working as a field training officer for the 77th Precinct. He worked from 3:00 p.m. until 11:35 p.m., was partnered with PO Mourad, was dressed in uniform, and was assigned to marked van #5972.

Memo Book

On March 1, 2011, at 6:00 p.m., PO DeSimone was injured in a pursuit and went to § 87(2)(b) (encl. 17A-C). PO DeSimone was out on a line of duty injury on March 2, 2011 and March 3, 2011.

Line of Duty Report

On March 1, 2011, at 6:00 p.m., PO DeSimone was chasing a grand larceny suspect when he was struck by a car and injured his hand and knee (encl. 18). He had bruising to his neck and hand as well as a sprain/strain. He experienced pain, swelling, and bruising to his neck, right knee, and right hand. PO DeSimone was taken to § 87(2)(b) via ambulance.

CCRB Testimony

PO DeSimone was interviewed at the CCRB on June 21, 2011 (encl. 19A-B). On March 1, 2011, at approximately 6:00 p.m., PO DeSimone was driving southbound on Nostrand Avenue, near Pacific Street, with PO Mourad and at least one other unknown officer. PO DeSimone and PO Mourad saw a male § 87(2)(b) running with what appeared to be a black backpack in his hands. § 87(2)(b) ran off the sidewalk and into the street, against the flow of traffic. PO DeSimone thought § 87(2)(b) might have just snatched a bag. Bag and purse snatching frequently occurs in that area at that time of day. PO DeSimone did not hear anyone scream around the time he first observed § 87(2)(b).

PO DeSimone stopped the van so that he and PO Mourad could exit and chase § 87(2)(b). He turned on the van's emergency lights. PO DeSimone ran around the back of the van and as he came around, a female motorist § 87(2)(b) did not see him and struck him with her vehicle. PO DeSimone ended up on her hood and windshield. He put his right hand down on her windshield in order to break his fall and to prevent himself from falling off the car. PO DeSimone did not realize until later that he accidentally cracked § 87(2)(b)'s windshield. He did not intentionally damage her windshield and was apologetic that it got damaged.

PO DeSimone went around the back of her car and continued to assist PO Mourad with the foot pursuit. Before he caught up, PO Mourad and Sgt. Zelikov had somehow taken § 87(2)(b) to the ground. PO DeSimone assisted with handcuffing § 87(2)(b). § 87(2)(b) tried to roll over on his hands and prevent being handcuffed. PO DeSimone told him to put his hands behind his back and put his arms over § 87(2)(b)'s legs to prevent him from kicking. PO DeSimone denied that § 87(2)(b) was punched in the back. § 87(2)(b) was placed in a police van after being handcuffed.

PO DeSimone then noticed that his right hand was hurting. He had bruising and swelling around his knuckles. He never told § 87(2)(b) to shut up or else he would break his good hand on his § 87(2)(b)'s skull. PO DeSimone asked § 87(2)(b) why he was running down the street like that but § 87(2)(b) did not answer him. A report was made regarding § 87(2)(b)'s damaged windshield so that she would be able to make an insurance claim. PO DeSimone never heard Sgt. Zelikov speak to her. PO DeSimone went to § 87(2)(b) in a police vehicle, not an ambulance. He was treated for soft tissue trauma to his hand.

Subject Officer: SGT. VITALIY ZELIKOV

- § 87(2)(b) -old white male, 6'0" tall, 190 pounds, with brown hair and green eyes.
- On the date of the incident, working as the 77th Precinct impact sergeant. He worked from 2:50 p.m. until 11:47 p.m., was partnered with PO John Yen, was dressed in uniform, and was assigned to a marked Ford Fusion sedan.

Memo Book

At 6:00 p.m., Sgt. Zelikov requested an ambulance to the scene for PO DeSimone, who was struck by a motor vehicle at the corner of Nostrand Avenue and Pacific Street and had minor injuries (encl. 20A-C).

CCRB Testimony

Sgt. Zelikov was interviewed at the CCRB on June 13, 2011 (encl. 21A-B). On March 1, 2011, at approximately 6:00 p.m., Sgt. Zelikov and PO Yen had a car stop near Nostrand Avenue and Pacific Street in Brooklyn. Ahead of them and facing southbound on Nostrand Avenue, PO Mourad and PO DeSimone were also conducting a car stop. PO Mourad, PO DeSimone, and possibly other unknown officers were in a marked van.

Sgt. Zelikov saw a young black male § 87(2)(b) running in his direction, northbound on Nostrand Avenue. § 87(2)(b) was alone and Sgt. Zelikov could not remember if § 87(2)(b) was carrying anything. PO Mourad exited the van and chased § 87(2)(b). PO Mourad was about a third of a block away from § 87(2)(b) verbally identified himself as a police officer, and told him to stop and not to move. The area was crowded with civilians. Sgt. Zelikov believed that § 87(2)(b) heard PO Mourad because PO Mourad was chasing him and gave him loud instructions to stop.

Because § 87(2)(b) was running in his direction, Sgt. Zelikov exited his car and physically stopped him. Sgt. Zelikov put his hands on § 87(2)(b)'s shoulders. PO Mourad caught up and other unknown officers assisted. § 87(2)(b) struggled a little so they took him to the ground in order to handcuff him. § 87(2)(b) was handcuffed right away. Sgt. Zelikov did not believe that § 87(2)(b) had one arm under his body and denied punching § 87(2)(b) in the back.

PO DeSimone did not assist with § 87(2)(b) because he was struck by a vehicle when he crossed the street to assist. Sgt. Zelikov did not witness the accident and was unaware of any officers who did. Sgt. Zelikov saw the vehicle afterwards; it was a sedan and the windshield was broken. He determined after an investigation that the windshield was damaged after PO DeSimone was struck. Sgt. Zelikov did not recall any injuries PO DeSimone had but called an ambulance for him. He did not hear PO DeSimone threaten § 87(2)(b) with the use of force. Sgt. Zelikov did not remember hearing the two speak.

PO Mourad told Sgt. Zelikov that he heard a female screaming, saw § 87(2)(b) running, and suspected § 87(2)(b) committed a robbery. After § 87(2)(b) was apprehended, the female was no longer at the scene. When Sgt. Zelikov determined that probable cause did not exist to arrest § 87(2)(b) he was released after a stop, question, and frisk report was prepared. He asked § 87(2)(b) if he wanted medical attention but he § 87(2)(b) and had no visible injuries. § 87(2)(b) was arrogant after he was released. He stayed on scene for a little while after they released him and verbally mocked the officers.

Sgt. Zelikov spoke with the driver of the vehicle with the damaged windshield § 87(2)(b). Her vehicle was in the middle of the street and was blocking traffic. He told § 87(2)(b) that an accident report could be prepared and her vehicle could be towed if it was not operational. Sgt. Zelikov asked her how the accident occurred but she was hostile and uncooperative. He denied telling her he did not give a “fuck” about her car. § 87(2)(b) did not initially want to move her car but eventually did. He did not remember if § 87(2)(b) was still on scene when he left at 6:45 p.m.

Witness Officer: PO JOSEPH D’AMBRA

- § 87(2)(b) -old white male, 5’9” tall, 170 pounds, with brown hair and brown eyes.
- On the date of the incident, assigned to foot post #15 (on Franklin Avenue between St. John’s Place and Lincoln Place). He worked from 3:00 p.m. until 11:35 p.m., was dressed in uniform, and had no partner.

Memo Book

On March 1, 2011 at 5:45 p.m., there was a vehicle accident involving an officer at the corner of Nostrand Avenue and Pacific Street (encl. 22A-B). From 6:08 p.m. to 6:15 p.m., PO D’Ambra accompanied PO DeSimone to § 87(2)(b). PO D’Ambra arrived at the stationhouse at 8:35 p.m. and completed two AIDED cards and a witness form.

AIDED Report

PO D'Ambra completed an AIDED card that stated that at 5:50 p.m. on March 1, 2011, at the corner of Pacific Street and Nostrand Avenue in Brooklyn, PO DeSimone was involved in a foot pursuit, chasing a possible grand larceny suspect, when he struck by a moving vehicle (encl. 23). PO DeSimone sustained hand and knee injuries. PO DeSimone was transported via ambulance to § 87(2)(b).

Line of Duty Witness Statement

PO D'Ambra completed a line of duty witness statement that indicated that at 5:50 p.m. on March 1, 2011, PO DeSimone was struck by a moving vehicle while in a foot pursuit of a suspect (encl. 24).

CCRB Testimony

PO D'Ambra was interviewed by the CCRB on July 20, 2011 (encl. 25A-B). On March 1, 2011, PO D'Ambra began his tour at Rodman's Neck for firearms training. Afterward he went back to the 77th Precinct stationhouse and received his assignment as foot post #15. Sgt. Zelikov offered to give PO D'Ambra a ride to his post and PO D'Ambra accepted. PO D'Ambra did not recall who Sgt. Zelikov's vehicle operator was. En route to the foot post location (Franklin Avenue between St. John's Place and Lincoln Place), the driver conducted a car stop in the vicinity of Pacific Street and Nostrand Avenue.

Once the car stop was completed and they were about to continue driving to the foot post location, PO D'Ambra noticed two uniformed male officers chasing a male § 87(2)(b) northbound on Nostrand Avenue. He did not remember who the two officers were but thought one might have been PO Mourad. Sgt. Zelikov immediately exited the vehicle to assist the two officers. Sgt. Zelikov did not say anything. PO D'Ambra did not know what was going on but he also exited the vehicle in order to help. He did not hear a person scream around that time. The intersection is busy and there were many people.

Sgt. Zelikov stopped § 87(2)(b) by using a bear hug, then taking him slowly to the ground. PO D'Ambra did not assist with § 87(2)(b)'s apprehension and never got closer than five feet to § 87(2)(b) during the incident. He did not see Sgt. Zelikov punch § 87(2)(b) in the back. PO D'Ambra did not remember hearing officers give § 87(2)(b) instructions before or after he was physically stopped. He estimated that he saw § 87(2)(b) for approximately two seconds and could not say whether § 87(2)(b) was carrying anything. The two officers who were initially chasing § 87(2)(b) caught up to him § 87(2)(b) and Sgt. Zelikov. An officer, possibly PO Mourad, asked PO D'Ambra to walk down the block to check if anyone complained about a purse/bag snatching.

PO D'Ambra walked halfway up the block. He stood in the middle of the street looking around to see if anyone would approach him and say his/her bag was stolen; however, no one did. While PO D'Ambra was doing that, he saw PO DeSimone drive by in his van with lights and sirens on. PO D'Ambra heard a commotion and saw PO DeSimone exit the van, run around the front of it, and get struck by a moving vehicle when he entered the street. PO DeSimone was either lifted by the car or he jumped onto the car to brace for impact. His right knee struck the hood of the car and his right hand hit the windshield. It appeared that PO DeSimone put his hand on the windshield unintentionally, to brace for impact. PO D'Ambra saw there was an indent on the hood and the windshield was cracked.

§ 87(2)(b) did not commit any crimes so an officer took his name and completed a stop, question, and frisk report. PO D'Ambra did not remember seeing Sgt. Zelikov or any other officers speaking to the female driver of the vehicle that struck PO DeSimone. He did not hear

PO DeSimone threaten to break his other hand on § 87(2)(b)'s skull. An ambulance was called for PO DeSimone. PO D'Ambra went to § 87(2)(b) in the ambulance with PO DeSimone.

Witness Officer: PO JOHN YEN

- § 87(2)(b)-old Asian male, 5'10" tall, 170 pounds, with black hair and brown eyes.
- On the date of the incident, working as Sgt. Zelikov's operator. He worked from 3:00 p.m. until 11:35 p.m., was dressed in uniform, and was assigned to marked car #5100.

Memo Book

PO Yen had no memo book entries pertaining to this incident (encl. 29A-B).

CCRB Testimony

PO Yen was interviewed at the CCRB on July 12, 2011 (encl. 30A-B). On March 1, 2011, at 6:00 p.m., PO Yen pulled up to the corner of Nostrand Avenue and Pacific Street in Brooklyn. They were coming from the stationhouse and did stop any vehicles before this incident. Sgt. Zelikov told him to stay with the car and block traffic, then he exited the car. Sgt. Zelikov did not say what he was doing and ran towards a crowd of people standing on the sidewalk. PO Yen did not hear a person scream prior to Sgt. Zelikov exiting the vehicle.

PO Yen did not observe what Sgt. Zelikov did after that because PO Yen noticed a marked police van parked westbound on Pacific Street. PO Yen then saw PO DeSimone cross Nostrand Avenue (at Pacific Street) and get struck by a car. PO Yen did not remember how PO DeSimone made contact with the vehicle. He got out of the car to see if PO DeSimone was okay. PO DeSimone kept running toward the crowd. PO Yen did not remember if PO Mourad was present.

PO Yen blocked traffic and did not approach the crowd. He could tell that the officers had stopped a male. He was unable to describe the male § 87(2)(b). He had not seen § 87(2)(b) running and did not hear PO DeSimone threaten § 87(2)(b) with the use of force. PO Yen thought Sgt. Zelikov spoke to the female driver of the vehicle that hit PO DeSimone. An accident report was prepared by a different officer. PO Yen might have told the female § 87(2)(b) to move her car because she stopped in the middle of the street. PO Yen did not remember if § 87(2)(b)'s windshield was damaged.

An ambulance was called to the scene for PO DeSimone. He believed PO DeSimone was injured but could not recall what his injuries were.

Witness Officer: PO KATRINA WEEKES

- § 87(2)(b)-old black female, 5'4" tall, 140 pounds, with black hair and brown eyes.
- On the date of the incident, assigned to foot post #21 (on St. Mark's Avenue between Nostrand Avenue and Bedford Avenue). She worked from 3:00 p.m. until 11:35 p.m., was dressed in uniform, without a partner.

Memo Book

On March 1, 2011 at 7:50 p.m. she completed an accident report for Pacific Street and southbound on Nostrand Avenue (encl. 26A-B).

Motor Vehicle Accident Report

PO Katrina Weekes completed accident report #§ 87(2)(b) for an incident that occurred at 5:50 p.m. on March 1, 2011, at Nostrand Avenue and Pacific Street (encl. 27A-B). The vehicle operator was § 87(2)(b) and the pedestrian victim, PO DeSimone, was injured.

CCRB Testimony

PO Weekes was interviewed at the CCRB on July 12, 2011 (encl. 28A-B). On March 1, 2011, at 6:00 p.m., PO Weekes was standing on her post on Nostrand Avenue when she saw a police van and officers chasing a black male § 87(2)(b). She did not recall which officers were chasing § 87(2)(b). She did not remember what § 87(2)(b) was wearing or whether he was carrying anything. The area was busy and there were many people outside. PO Weekes did not hear a person scream before or around the time she saw the officers chase § 87(2)(b).

PO Weekes followed the officers in case they needed assistance with § 87(2)(b). When she caught up to them, Sgt. Zelikov told her to complete an accident report for PO DeSimone, who was struck by a vehicle. PO Weekes did not witness the accident involving PO DeSimone. She did not see how § 87(2)(b) was apprehended or who actually stopped him. She did not observe PO DeSimone speak to § 87(2)(b).

PO Weekes obtained § 87(2)(b)'s information for the accident report. § 87(2)(b) was shaken up by the accident and PO Weekes tried to calm her down. Her windshield was broken. PO Weekes told § 87(2)(b) to pull over her vehicle (if it was drivable) because it was in the middle of the street. PO Weekes explained that she could pick up the accident report later from the precinct and advised her to drive carefully. People in the streets were talking to § 87(2)(b). She did not see § 87(2)(b) and § 87(2)(b) talking. PO Weekes did not observe Sgt. Zelikov speak to her.

An ambulance was called for PO DeSimone and he complained of pain to possibly his arm. § 87(2)(b) and § 87(2)(b) were no longer on scene when PO Weekes left. She did not recall if PO D'Ambra was there.

Officer Not Interviewed

- PO Marlenis Roque was not interviewed § 87(2)(g)

Medical Records

- According to § 87(2)(b)'s Ambulance Call Report, on March 1, 2011, at 6:51 p.m., an ambulance treated him at Dean Street and Rogers Avenue (encl. 31A-D). § 87(2)(b) had pain to his right face, and pain to his lower right back, resulting from an assault. § 87(2)(b)'s chief complaint was that an officer punched him in the back. He was transported to § 87(2)(b).
- On March 1, 2011, at 7:34 p.m., § 87(2)(b) arrived via ambulance at the § 87(2)(b) Emergency Department (encl. 32A-P). § 87(2)(b) had neck pain and obvious mild discomfort after being tackled to the ground, punched in the back, and handcuffed. A physical exam revealed mild swelling/tenderness on the right side of his face and mild right lateral neck pain. § 87(2)(b) received a spine and head CT scans, both with unremarkable results. He was discharged at 10:41 p.m. on March 1, 2011. His diagnosis was a face contusion. He was instructed to take one 600 mg. tablet of Motrin by mouth every eight hours as needed.
- The 77th Precinct voluntarily provided some of PO DeSimone's medical records from § 87(2)(b) § 87(2)(b) (encl. 33A-H). PO DeSimone was treated at § 87(2)(b) on March 1, 2011. He complained that he was hit by a car and had swelling and hand pain. He was given "patient education materials" for cervical radiculopathy (pinched nerve in neck), hand contusion, neck injury, and knee pain. PO DeSimone was prescribed 10 mg. cyclobenzaprine to take three times a day for five days, as

well as 800 mg. Motrin three times a day as needed for pain. He was to follow up with his NYPD physician within two to four days and was excused from work until March 7, 2011.

NYPD Documents

SPRINT Reports

According to SPRINT report #T10833, at 5:57 p.m. on March 1, 2011, at Pacific Street and Nostrand Avenue, the 77th Precinct impact sergeant requested an ambulance for an officer with minor injuries to the hand after being hit by a vehicle (encl. 34A-E). The ambulance arrived at 6:05 p.m. and removed the officer to Methodist Hospital at 6:13 p.m.

According to SPRINT report #§ 87(2)(b) at 6:08 p.m. on March 1, 2011, at Pacific Street and Nostrand Avenue, an anonymous female § 87(2)(b) called 911 and reported that a police officer jumped onto her car and broke her windshield. § 87(2)(b) disconnected before being transferred to IAB. She called back at 6:19 p.m. and again stated that an officer broke her car window.

Status of Civil Proceedings

- § 87(2)(b) filed a Notice of Claim with the City of New York on an unknown date, claiming that her windshield was damaged, and seeking \$200 as redress (encl. 37A-D).
- § 87(2)(b) filed a Notice of Claim with the City of New York on § 87(2)(b), claiming that he was battered, assaulted, injured, and falsely arrested, and seeking \$1,000,000 as redress (encl. 38A-B).

Civilian Criminal Histories

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b)
- § 87(2)(b) is a juvenile and his arrest history cannot be obtained.

Civilian CCRB Histories

- This is the first CCRB complaints for § 87(2)(b) and § 87(2)(b) (encls. 5, 6, and 7).

Officer CCRB Histories

- PO Mourad has been a member of the service for six years and are no substantiated allegations against him (encl. 2A-B).
- Sgt. Zelikov has been a member of the service for six years and there are no substantiated CCRB allegations against him (encl. 3).
- PO DeSimone has been a member of the service for twelve years and there are two substantiated CCRB allegations against him (encl. 4).
 - In CCRB case 200400081, the Board recommended charges when it substantiated a vehicle search allegation and a discourtesy allegation against him. Both allegations were dismissed at trial by the NYPD.

Conclusion

Identification of Subject Officers

- PO Mourad acknowledged that he initiated the stop of § 87(2)(b) when he suspected § 87(2)(b) had committed a robbery. § 87(2)(g)
- Sgt. Zelikov acknowledged that he was the officer who physically stopped § 87(2)(b). He also stated that he spoke to § 87(2)(b) about her car. § 87(2)(f)
- The investigation determined that PO DeSimone was the only officer injured during this incident, and he acknowledged that he damaged § 87(2)(b)'s windshield. § 87(2)(g)

Allegation Not Pleaded

- § 87(2)(b) stated that Sgt. Zelikov told her that her car could be towed or summonsed if she did not move it. § 87(2)(g)

Investigative Findings and Recommendations

Allegation A – PO Mourad Mourad stopped § 87(2)(b)

PO Mourad stated that he heard someone scream loudly and when he looked in the direction of the scream he saw § 87(2)(b) sprinting with what appeared to be a purse in his hand. PO Mourad and PO DeSimone noted that purse/bag snatching occurs often in that area. PO DeSimone, Sgt. Zelikov, PO D'Ambra, PO Yen, and PO Weekes did not hear anyone scream but all of the officers described the area as busy. PO Mourad completed a stop, question, and frisk report to document that § 87(2)(b) was stopped for suspicion of robbery. PO D'Ambra confirmed he was instructed to check the area to see if someone came forward to report a robbery, but no one did. Sgt. Zelikov stated that PO Mourad told him afterwards the stop that he heard screaming before seeing § 87(2)(b) running. § 87(2)(g)

Once § 87(2)(b) was stopped the officers determined that no crime had been committed. § 87(2)(g)

Allegation B – Sgt. Vitaliy Zelikov used physical force against § 87(2)(b)

§ 87(2)(b) stated that after Sgt. Zelikov took him to the ground, Sgt. Zelikov handcuffed his left hand and told him to give his other hand. However, § 87(2)(b) could not move his right hand as it was underneath his body and he was holding onto his cell phone. Sgt. Zelikov allegedly punched § 87(2)(b) once in the lower right part of his back, which prompted § 87(2)(b) to give up his other hand. Although Sgt. Zelikov denied punching § 87(2)(b) in the back, § 87(2)(b) was admittedly non-compliant with his instructions.

According to Patrol Guide Procedure 203-11, officers may only use the amount of force necessary to overcome resistance and to effect an arrest (encl. 1A-B). § 87(2)(g)

Allegation C – PO Mark DeSimone damaged § 87(2)(b)

Allegation D – PO Mark DeSimone threatened § 87(2)(b)

Allegation E – Sgt. Vitaliy Zelikov spoke obscenely to § 87(2)(b)

Team: 2

Investigator: _____ Hilary Hudson _____
Signature Print Date

Supervisor: _____

Title/Signature	Print	Date
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Reviewer: _____

Title/Signature	Print	Date
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Reviewer: _____

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